

REVISED

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF ADMINISTRATIVE SERVICES
SEPTEMBER 24, 2013**

ITEM 8

SUBJECT

CONSIDERATION OF A RESOLUTION ADOPTING EMERGENCY REGULATIONS REVISING THE CORE REGULATORY FEE SCHEDULES CONTAINED IN TITLE 23, DIVISION 3, CHAPTER 9, ARTICLE 1, SECTIONS 2200, **2200.5**, AND 2200.6 OF THE CALIFORNIA CODE OF REGULATIONS.

DISCUSSION

Water Code Section 13260 requires each person who discharges waste or proposes to discharge waste that could affect the quality of the waters of the state to file a report of waste discharge with the appropriate regional water board and to pay an annual fee set by the State Water Board, the funds from which are deposited in the Waste Discharge Permit Fund (WDPF). Water Code Section 13260 requires the State Water Board to adopt, by emergency regulations, an annual schedule of fees for persons discharging waste to the waters of the state. Water Code Section 13260 further requires the State Water Board to adjust the annual fees each fiscal year to conform to the revenue levels set forth in the Budget Act. The Budget Act for Fiscal Year (FY) 2013-14 will require the State Water Board to increase fees by \$18.9 million to reach the budget level.

Financial Condition of the Waste Discharge Permit Fund

[Attachment 1](#) shows a ten-year analysis of the fund condition for the WDPF. The FY 2012-13 beginning balance is \$6.4 million. Total revenue is approximately \$98.6 million and total expenditures are approximately \$101.8 million, resulting in a \$3.2 million deficit with a negative balance of \$1.3 million and a negative fund reserve of 1.2 percent.

The FY 2013-14 beginning balance is a deficit of approximately \$1.3 million. Under the current fee schedule, total revenue is anticipated to be \$95.4 million and total expenditures are anticipated to be \$108.9 million, resulting in a loss of approximately \$13.5 million and a deficit in the WDPF of \$14.7 million. In order to eliminate the projected deficit and meet budgetary expenditures, the State Water Board needs to generate an additional **\$18.94** million in fee revenue to bring total fee revenue up to **\$113.93** million. This will result in a gain of **\$5.14.5** million with an ending balance of **\$3.83** million and a fund reserve of **3.50** percent

Program Expenditures

[Attachment 2](#) shows the projected FY 2013-14 revenue based on the existing fee schedule, the budget for FY 2013-14 along with the projected fee revenue needed to meet anticipated budgetary expenditures by program, the cost drivers, and the revenue increases needed by program area to meet budgeted expenditures and eliminate a projected deficit. The cost drivers include staff cost adjustments, including increased budget authority of \$650,000 for the Irrigated Lands Regulatory Program and \$800,000 for the ~~Surface Water~~ Ambient Monitoring Programs **(SWAMP)**, and a specific fund shifts for the Waste Discharge Requirement (WDR) Program moving support for the Timber Harvest Program from the WDPF to the Timber Regulation and Forest Restoration Fund. In addition to the fund shift, there is a revenue shortfall from FY 2012-13 that is attributable to a return to full program budget authority, an increase of \$1 million for Beach Monitoring (SB 482), \$700,000 for Recycled Water (Legislative augmentation), a Groundwater Ambient Monitoring Assessment (GAMA) program fund shift, additional Legal Services costs, and funding to cover a portion of the costs associated with the San Diego Office move.

As Attachment 2 indicates, of the \$18.9 million fee increase, \$7.3 million or 38.6 percent is attributable to program cost adjustments, \$5.7 million or 30.2 percent is attributable to a base revenue shortfall and \$5.9 million or 31.2 percent is attributable to the projected Fund deficit.

[Attachment 3](#) shows revenue and expenditures by program for FY 2004-05 through FY 2012-13.

Proposed Changes

WDR

The WDR program budget for FY 2013-14 (including its portion of GAMA Program) is \$25.0 million and projected revenue is \$20.6 million. The WDR Program needs to generate an additional \$5.7 million in revenue to meet the FY 2013-14 Budget and eliminate its portion of the Fund deficit which translates to a 27.4 percent increase to all WDR fee categories.

Land Disposal – No Tipping Fee

The Land Disposal – No Tipping Fee program budget for FY 2013-14 (including its portion of GAMA) is \$10.1 million and projected revenue is \$8.7 million. The Land Disposal – No Tipping Fee Program needs to generate an additional \$2.0 million in revenue to meet the FY 2013-14 Budget and eliminate its portion of the Fund deficit which translates to a 22.8 percent increase to all Land Disposal – No Tipping Fee categories.

Land Disposal – Tipping Fee

The Land Disposal – Tipping Fee program budget for FY 2013-14 (including its portion of GAMA) is \$3.4 million and projected revenue is \$3.0 million. The Land Disposal – Tipping Fee Program needs to generate an additional \$551,000 in revenue to meet the FY 2013-14 Budget and eliminate its portion of the Fund deficit which translates to a 18.2 percent increase to all Land Disposal – Tipping Fee categories.

Confined Animal Facilities (CAF)

The CAF program budget for FY 2013-14 (including its portion of GAMA) is \$4.1 million and projected revenue is \$3.0 million. The CAF Program needs to generate an additional \$1.4 million in revenue to meet the FY 2013-14 Budget and eliminate its portion of the Fund deficit which translates to a 46.4 percent increase to all CAF fee categories. **Considering the**

large percentage of this needed increase, the particularly poor economy currently for dairies operations, and the dairy industry's inability to easily pass on increased costs as a result of milk pricing regulations , we propose that the increase be split between FY 2013-14 and FY 2014-15 by delaying a portion the WDPF fund reserve increase. The fees for FY 2013-14 will be increased by \$813,000 or 27.4 percent which will be in line with the other increases for WDPF programs while keeping the Fund reserve at 3.0 percent. State Water Board staff will be evaluating the CAF program fee schedule for FY 2014-15 and working with CAF program stakeholders to determine if there are other methodologies than a simple percent increase to the CAF fee to recover the shortfall of revenue in FY 2014-15.

NPDES

The NPDES program budget for FY 2013-14 (including its portion of **the Surface Water Ambient Monitoring Program (SWAMP)**) is \$28.3 million and projected revenue is \$28.7 million. The NPDES Program needs to generate an additional \$1.2 million in revenue to meet the FY 2013-14 Budget and eliminate its portion of the Fund deficit which translates to a 4.1 percent increase to all NPDES fee categories.

Storm Water

The Storm Water program budget for FY 2013-14 (including its portion SWAMP) is \$28.3 million and projected revenue is \$23.4 million. The Storm Water Program needs to generate an additional \$6.4 million in revenue to meet the FY 2013-14 Budget and eliminate its portion of the Fund deficit which translates to a 27.5 percent increase to all Storm Water fee categories.

401 Certification

The 401 Certification program budget for FY 2013-14 (including its portion of SWAMP) is \$5.1 million and projected revenue is \$4.6 million. The 401 Certification Program needs to generate an additional \$751,000 in revenue to meet the FY 2013-14 Budget and eliminate its portion of the Fund deficit which translates to a 16.2 percent increase to all 401 Certification fee categories.

Irrigated Lands Regulatory Program (ILRP)

The ILRP program budget for FY 2013-14 is \$3.7 million, which includes an additional \$650 thousand of budget authority to support 5 new positions and projected revenue is \$2.9 million. The ILRP Program needs to generate an additional \$1.0 million in revenue to meet the FY 2013-14 Budget and eliminate its portion of the Fund deficit which translates to a 34.5 percent increase to each tiers' fees.

Other Fee Schedule Changes

In addition to the proposed fee increases, State Water Board staff is also recommending minor language changes to clarify the fee regulations for the Storm Water and Irrigated Lands Regulatory Programs.

POLICY ISSUE

Should the State Water Board consider adopting a resolution amending the annual fee schedules as proposed by staff?

FISCAL IMPACT

The Budget Act includes expenditure authority for the Waste Discharge Permit Fund of \$108.0 million while the current fee schedules would only generate a projected \$95.43 million in revenue, leaving a negative fund balance of \$14.7 million. The proposed changes would generate an additional \$18.94 million in fee revenue. With this increase, the ending fund balance for FY 2013-14 would be \$3.83 million, eliminating a projected deficit and keeping the fund solvent with a fund reserve of 3.50 percent.

REGIONAL BOARD IMPACT

Fee increases would allow program staffing and activities to remain at current budget levels.

STAFF RECOMMENDATION

That the State Water Board approves the resolution to adopt emergency regulations to change the current annual fee schedules as summarized below:

- 1) WDPF Program Fees: State Water Board staff recommends assessing fees on other WDPF fee programs as specified in Attachment 2.
- 2) Other Fee Schedule Changes: State Water Board staff recommends making the minor language changes as proposed.

State Water Board action on this item will assist the Water Boards in reaching Goals 1-4 of the Strategic Plan Update: 2008-2012 to:

- Goal 1: Support beneficial uses
- Goal 2: Improved and protect groundwater equality
- Goal 3: Increase sustainable local water supplies
- Goal 4: Address water quality protection and restoration